

New Trends in International Commercial Arbitration

Abstract:

The purpose of my thesis is to analyze two leading trends in international commercial arbitration. Those trends are (i) the influence of electronic means of communication on arbitration proceedings and (ii) confidentiality and its actual development in respect to implied duty of confidentiality in arbitration proceedings. The main methodology of research was to compare recently revised arbitration rules with its previous wordings (UNCITRAL Rules, ICC Rules, SCC Rules and CAM Rules) and examine changes related to the above enlisted topics. Furthermore diverse sources were used in the thesis such as arbitration rules of different institutions, experts' publications and also e-mail correspondence with representatives of observed arbitration institutions.

The thesis is composed of three chapters. The first chapter summarizes actual revisions of observed arbitration rules without making any conclusions.

The second chapter describes the influence of modern technologies on arbitration proceedings. The chapter consists of four parts. The first part introduces online arbitration and presents possible ambiguities in this term. The second part focuses on specific stages of arbitration proceedings and analyzes in detail, how those stages are influenced by modern technologies in observed arbitration rules as well as in other relevant rules. Opinions of commentators are examined and in the conclusions of the relevant chapter, I suggest solutions of possible collisions. The third part focuses on selected specific types of disputes that occur in cyberspace such as non-binding arbitration and those related to domain names. The final part summarizes conclusions made in previous parts, concludes what online arbitration means and how most flagrant problems should be resolved. In the second chapter I also focus on compliance of proposed solutions with New York Convention.

The third chapter concentrates on the topic of implied confidentiality in international arbitration and is divided into six parts. The first part describes differences between confidentiality and privacy. The second part introduces historical evolution of implied duty of confidentiality. The third part reviews adjustments of observed arbitration rules in respect of confidentiality. The fourth part observes how the duty of confidentiality is applied in various stages of proceedings. The fifth part recaps decisions of national courts in different jurisdictions that influenced implied duty of confidentiality. The sixth part concludes observed

developments and presents advices that shall be followed by parties, if they wish to maintain proceedings confidential.

Conclusions are drawn in the last chapter. In the thesis I described actual changes in observed rules and predicted possible future developments. Furthermore I examined main problems connected with the aforementioned changes, presented opinions of prominent commentators and my opinions on those problems and proposed suitable solutions as to how those problems might be avoided.